



Not Reported in F.Supp.2d, 2007 WL 2068353 (S.D.Ill.)
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United States District Court,
S.D. Illinois.
Carl KIRCHER, et al., individually and on behalf
of all others similarly situated, Plaintiffs,
v.
PUTNAM FUNDS TRUST, a business trust, et al.,
Defendants.
Nos. 06-cv-939-DRH, 06-cv-1001-DRH.

July 17, 2007.

Klint L. Bruno, George A. Zelcs, Korein Tillery,
Chicago, IL, Robert L. King, Stephen M. Tillery,
Korein Tillery, St. Louis, MO, for Plaintiffs.

Rebecca R. Jackson, Ann C. Barron, Bryan Cave,
St. Louis, MO, Charles L. Joley, Donovan, Rose et
al., Belleville, IL, for Defendants.

ORDER

HERNDON, District Judge.

*1 This matter is before the Court on the motion for remand to state court based on procedural defects in removal brought by Plaintiffs Carl Kircher and Robert Brockway (Doc. 10), Plaintiffs' motion for remand to state court for lack of federal subject matter jurisdiction (Doc. 20), the motion for judgment on the pleadings brought by Defendants Putnam Funds Trust, Putnam Investment Management, LLC, Evergreen International Trust, and Evergreen Investment Management Co., LLC (Doc. 12), and Defendants' motion for oral argument on Plaintiffs' motion for remand based on procedural defects in removal (Doc. 18). On May 24, 2007, the Court stayed these proceedings pending resolution of appeals from orders granting remand entered in *Dudley v. Putnam Investment Funds*, Case No. 06-cv-940-GPM (S.D. Ill. filed Nov. 14, 2006), and

Potter v. Janus Investment Fund, Case No. 06-cv-929-DRH, Case No. 06-cv-997-DRH (S.D. Ill. filed Nov. 13, 2006), and from an order of dismissal in *Spurgeon v. Pacific Life Insurance Co.*, Case No. 06-cv-983-MJR, Case No. 06-cv-925-MJR (S.D. Ill. filed Nov. 28, 2006). See *Kircher v. Putnam Funds Trust*, Nos. 06-cv-939-DRH, 06-cv-1001-DRH, 2007 WL 1532116 (S.D.Ill. May 24, 2007). Those appeals now have been resolved. See *In re Mutual Fund Market-Timing Litig.*, Nos. 07-1695, 07-2244, 07-2053, 07-2142, 2007 WL 2012390 (7th Cir. July 13, 2007). Accordingly, the stay is **LIFTED**. Having reviewed the record carefully, the Court concludes that oral argument will not be helpful in resolving Plaintiffs' request for remand, and therefore Defendants' motion for oral argument (Doc. 18) is **DENIED**. Plaintiffs' motion for remand based on lack of subject matter jurisdiction (Doc. 20) is **DENIED**. See *Potter v. Janus Inv. Fund*, 483 F.Supp.2d 692, 695-703 (S.D.Ill.2007). Plaintiffs' motion for remand based on procedural defects in removal (Doc. 10) is **GRANTED**. See *Dudley v. Putnam Inv. Funds*, 472 F.Supp.2d 1102, 1107-13 (S.D.Ill.2007). Pursuant to 28 U.S.C. § 1447(c) this matter is **REMANDED** to the Circuit Court of the Third Judicial Circuit, Madison County, Illinois, by reason of untimeliness of removal. Defendants' motion for judgment on the pleadings (Doc. 12) is **DENIED as moot**.

IT IS SO ORDERED.

S.D.Ill.,2007.

Kircher v. Putnam Funds Trust

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